



Commonwealth  
of Massachusetts

*OCPF Online*  
*www.state.ma.us/ocpf*  
*Office of Campaign and Political Finance*  
*One Ashburton Place, Room 411*  
*Boston, MA 02108*

---

---

**Advisory Opinion**

May 27, 1998  
AO-98-12

Kelly J. Dionne  
Netivation, Inc.  
7950 Meadowlark Way  
Coeur d'Alene, ID 83815

Re: Political on-line fundraising

Dear Mr. Dionne:

This letter is in response to your request for an opinion regarding the use of the Internet to raise funds for candidates.

**Facts:** Netivation is an Internet-based software company. It has developed a political Web site, which is designed to serve campaigns and citizens as a "one-stop" information source on the Internet. One of the features of the site is the ability of political candidates to conduct on-line fundraising.

The on-line process you have created is as follows:

- All solicitation forms created on the site are "in accordance with campaign disclosure guidelines."
- The Internet user fills out a "contribution to a candidate" form and selects the amount desired for contribution.
- The credit card transaction is processed through Netivation's merchant account.
- Netivation produces a campaign report and issues a check and the report to the political candidate.
- Netivation, acting as a fundraising entity for the candidate, will retain 15% of the contributed amount.

**Question:** May Netivation provide its fundraising service to candidates in Massachusetts?

**Answer:** No.

### Discussion:

The Massachusetts campaign finance law strictly limits the form in which contributions greater than \$50.00 may be made. As noted in AO-95-09 (enclosed), chapter 55 is a comprehensive statute, and any method of raising funds not authorized by the statute is prohibited. No provision allows the receipt of contributions by credit card. Generally, contributions must be made by check unless the contribution is in an amount of \$50.00 or less and the candidate or committee receiving the contribution knows that the contribution, when considered together with other contributions received from the same contributor during the calendar year, will not exceed \$50.00. Specifically, section 9 of M.G.L. c. 55 states, in relevant part:

No individual, candidate or political committee, or person acting on behalf of said individual, candidate, or political committee, shall accept a contribution of money from any one person or political committee **if the aggregate amount contributed in a calendar year exceeds fifty dollars except by check or by direct deposit in accordance with section nine A.** For the purposes of the preceding sentence the word "check" shall mean a check on which the contributor is directly liable or which is written on a personal, escrow, trust, partnership, business or other account which represents or contains the contributor's funds and shall not mean a certified check, cashier's check, treasurer's check, registered check, money order, traveler's check or other similar negotiable instrument. [Emphasis added].

Only one exception exists to section 9: political action committees (not candidates or their committees) may accept contributions by direct deposit only if "the contributor provides the political action committee with a true copy of the signed authorization card provided by the contributor to said contributor's bank or other financial institution."<sup>1</sup> See M.G.L. c. 55, § 9A. Section 9A reflects a legislative concern that additional safeguards are necessary in the only circumstance where contributions over \$50.00 may be made by any means other than by check. Those safeguards, relating to contributor authorization, record keeping and disclosure, would not exist under the proposed plan.

Similarly, the proposed method for assessing a 15% fee on each contribution prior to transfer of the net contribution to candidates would also be inconsistent with the reporting requirements of the campaign finance law. Section 18 of the statute requires candidates and

---

<sup>1</sup> The authorization card must include "(1) the name and residential address of the contributor, (2) the occupation and employer or employers of any contributor whose authorization card authorizes a contribution of two hundred dollars or more or periodic contributions which in the aggregate exceed or may exceed two hundred dollars or more within any one calendar year, and (3) the amount and payment period, if any, of each contribution. In addition, the authorization card shall include a statement that the contributor's authorization may be revoked by the contributor at any time by written notice from the contributor to the contributor's bank or other financial institution." See M.G.L. c. 55, § 9A.

Kelly J. Dionne  
May 27, 1998  
Page 3

committees to report each contribution and expenditure in full. See AO-89-14. If a contributor makes a contribution of \$100 and a \$15 fee is charged, the candidate must receive and report the receipt of a contribution of \$100 and must make and report a separate expenditure of \$15 reflecting payment of the administrative fee. In short, any system of raising funds for a Massachusetts candidate must ensure that the entire contribution, not net proceeds after deducting a fee, is transferred to the candidate. Otherwise, candidates might erroneously report the receipt of only part of the contribution actually made, i.e., \$85 in the example.

This opinion is issued within the context of the Massachusetts campaign finance law and is provided solely on the basis of representations in your letter. Please contact us if you have further questions.

Sincerely,

A handwritten signature in cursive script, reading "Michael J. Sullivan", followed by a horizontal line.

Michael J. Sullivan  
Director